

Chapter 26

Nuisances

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History: Section 26-1 was from Ordinance 1000 Article V Section 18 (adopted January 12, 1976), Sections 26-2, 26-3, and 26-4 were Ordinance 9012 (adopted April 4, 1969), Section 26-5 was Ordinance 9006 (adopted June 2, 1958), Article II was Ordinance 9004 (adopted December 2, 1957), Article III was Ordinance 9005 (adopted February 3, 1958) and Article IV was Ordinance 9011A (adopted February 12, 1979).

Article I Littering**Section 26-1 General**

No person shall deposit or cause to be deposited any garbage in or upon any street, public place, park, vacant lot or public or private alley.

Section 26-2 Definition

Littering: the throwing, scattering or depositing upon any property, public or private, except property owned by the person throwing, scattering or depositing, of glass, cans, paper, or any other goods, merchandise or other form of refuse or rubbish.

Section 26-3 Criminal Penalties

Littering is unlawful and is a misdemeanor, and any person convicted of littering shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or be imprisoned not less than ten (10) days nor more than thirty (30) days, or both.

Section 26-4 Jurisdiction

The Court of Common Pleas for New Castle County shall have concurrent jurisdiction with Justices of the Peace to issue warrants and try offenses brought pursuant to this Article.

Section 26-5 Littering of Waste into the Branch Channel

No person by agent or otherwise shall cast, throw or deposit or in any manner cause to be cast, thrown or deposited trash, waste or garbage material into the Branch Channel of the Delaware and Chesapeake Canal or on Canal Street adjacent thereto within the Town limits of Delaware City.

Whoever violates Section 26-1 of this ordinance shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00).

Sections 26-6 to 26-10 Reserved

Article II Loitering**Section 26-11 Loitering**

Whoever loiters upon the sidewalk within the Town limits of Delaware City, so as to obstruct the free and convenient passage of a person or persons walking along said sidewalk and fails to make way after reasonable request is guilty of a common nuisance and shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

Sections 26-12 to 26-15 Reserved

Article III Disorderly Conduct**Section 26-16 Disorderly Conduct**

Whoever brawls, quarrels, uses abusive, threatening or profane language, in a loud voice, or is intoxicated in any public place within the Town limits of Delaware City is guilty of disorderly conduct and shall be fined not more than twenty-five dollars (\$25.00) and the cost of prosecution, and in default of the payment of such fine shall be imprisoned not more than ten (10) days.

Sections 26-17 to 26-20 Reserved

Article IV Curfew**Section 26-21 Definitions**

For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the masculine gender to include the feminine gender, and words in the singular number the plural number. The word “shall” is always mandatory and not merely directory.

- a.) City: the City of Delaware City.
- b.) Minor: any person under the age of eighteen (18) years.
- c.) Parent: the natural or adoptive parent of a minor.
- d.) Guardian: any person other than a parent, who has legal guardianship of a minor.
- e.) Custodian: any person over the age of twenty-one (21) years who is in loco parentis to a juvenile.

Section 26-22 Curfew for Minors Under Eighteen – Generally

It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or remain unnecessarily upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, whether by foot or in a motor vehicle or other conveyance between the hours of 10:00 P.M. and 6:00 A.M., of the following day, official city time; provided, however, that the provisions of this Section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate employment directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 26-23 Curfew for Minors Under Eighteen – Responsibility of Parents, Guardians, Etc.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to neglect to restrain and prevent or to knowingly permit such minor to loiter, idle, wander, stroll or play in or remain unnecessarily upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment,

vacant lots or other unsupervised places between the hours of 10:00 P.M. and 6:00 A.M. of the following day, official city time; provided, however, that the provisions of this Section shall not apply when the minor is upon and emergency errand or legitimate employment directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 26-24 Procedures

a.) Any police officer upon finding a minor in violation of Section 26-22 shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the Chief of Police who in turn shall notify the parents, guardian or person having custody or control of such minor.

b.) If such minor refused to heed such warning or direction by the police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person having custody of any said minor cannot be located, any such minor shall be turned over to the State Division of Social Services or the Family Court for such action as is deemed appropriate in accordance with the Rules of the Family Court.

c.) Any police officer who turns over a minor, alleged to have violated the provisions of Section 26-22 of this Article, to his or her parent, guardian or other adult person having the care and custody of such minor, shall thereupon issue to such parent, guardian or other said adult person a summons charging him or her with violation of the provisions of Section 26-23 of this Article.

d.) Any parent, guardian or other adult person having care and custody of a minor and who is found guilty of violating the provisions of Section 26-23 of this Article shall, upon conviction thereof, be fined for the first offense the sum of fifteen dollars (\$15.00) and not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each subsequent offense.

Sections 26-25 to 26-30 Reserved